

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

SHERRY ATWOOD, JAMES DRISKELL,
PHIL FEATHERBAY, DON GLEDHILL,
LINDA GLEDHILL, BARB GRIFFIN,
JOETTE KELLY, CATHY LISKA, and
SCHALAMAR CREEK MOBILE
HOMEOWNER'S ASSOCIATION, INC.,

Plaintiffs,

v.

Case No. 8:19-cv-291-TPB-AEP

STEVEN ADLER, LORRAINE DEMARCO,
R. SCOTT PROVOST, CHARLES CROOK,
MARTI NEWKIRK, MUREX PROPERTIES,
L.L.C, THE NORTHWESTERN MUTUAL
LIFE INSURANCE COMPANY, RANDALL
KNAPP, OSPREY LINKS, LLC,
SCHALAMAR GP, INC., RICHARD LEE,
DAVID EASTMAN, and LUTZ, BOBO &
TELFAIR, P.A.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on consideration of the report and recommendation of Anthony E. Porcelli, United States Magistrate Judge, entered on December 7, 2021. (Doc. 164). Judge Porcelli recommends that “Defendants’ Supplemental Motion for Prevailing Party Attorney’s Fees and Costs” (Doc. 158) be granted in part and denied without prejudice in part. Judge Porcelli specifically recommends that the Court find that Defendants are entitled to attorney’s fees pursuant to § 772.104(3), *F.S.* Judge Porcelli further recommends that Defendants be allowed to supplement their petition for taxation of costs upon filing their supplemental

motion for amount of attorney's fees. Plaintiffs and Defendants filed objections. (Docs. 166, 167). The Court held a brief hearing on January 20, 2022.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. *See Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Castro Bobadilla v. Reno*, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), *aff'd*, 28 F.3d 116 (11th Cir. 1994) (table).

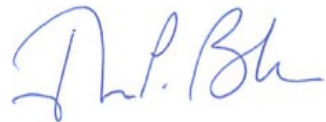
Upon due consideration of the record, including Judge Porcelli's report and recommendation, the Court adopts the report and recommendation. The Court agrees with Judge Porcelli's well-reasoned factual findings and conclusions, and the objections do not provide a basis for overruling the report and recommendation. Consequently, Consequently, Defendants' motion for attorney's fees is granted in part and denied without prejudice in part.

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) Judge Porcelli's report and recommendation (Doc. 164) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
- (2) "Defendants' Supplemental Motion for Prevailing Party Attorney's Fees and Costs" (Doc. 158) is hereby **GRANTED IN PART** and **DENIED WITHOUT PREJUDICE IN PART**.
- (3) The Court finds that Defendants are entitled to attorney's fees pursuant to § 772.104(3), *F.S.* Defendants are directed to file their supplemental motion for amount of attorney's fees in accordance with the requirements of Local Rule 7.01(c).
- (4) Defendants are permitted to supplement their petition for taxation of costs upon filing their supplemental motion for amount of attorney's fees.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 20th day of January, 2022.



TOM BARBER
UNITED STATES DISTRICT JUDGE